

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLY CARL LYONS,

Plaintiff,

No. CIV S-01-0412 LKK KJM P

vs.

D. BAUGHMAN,

Defendant.

ORDER

Plaintiff is a state prison inmate proceeding pro se with a civil rights action under 42 U.S.C. § 1983. The case is currently set for a trial confirmation hearing by videoconferencing on April 10, 2006 and for jury trial on June 20, 2006.

On March 13, 2006, plaintiff filed a motion to stay the proceedings until his motion for relief from judgment is adjudicated. Defendant has not filed a response.

In his motion from judgment, plaintiff argues that the judgment is invalid under Fed. R. Civ. P. 17(c) because he was incompetent during the summary judgment proceedings as the result of his regime of psychotropic medications. He alleges the court was required to hold a hearing to determine his competence to proceed. Krain v. Smallwood, 880 F.2d 1119, 1120 (9th Cir. 1989).

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1 Even if plaintiff had submitted the documents he now provides about his mental  
2 health in 2004, this documentation would not have raised “a substantial question” about his  
3 competence. Krain, 880 F.2d at 1120. As plaintiff’s Exhibit 2 shows, the mental health officials  
4 treating him rated his organization and association of thought, his intellectual functioning, his  
5 thought quality, and contact with reality to be within normal limits.

6 To the extent plaintiff otherwise seeks relief from the resolution of the summary  
7 judgment motion under Fed. R. Civ. P. 60(b), his motion fares no better. Plaintiff argues that the  
8 magistrate judge and this court decided the summary judgment motion incorrectly, but does not  
9 otherwise contend that there is newly discovered evidence which would undercut that resolution  
10 or suggest that mistakes, surprise or excusable neglect had tainted the resolution of the motion.  
11 The merits of a case are not before the court on a Rule 60(b) motion. Casey v. Albertson’s, Inc.,  
12 363 F.3d 1254, 1261 (9th Cir. 2004).

13 IT IS HEREBY ORDERED that:

- 14 1. Plaintiff’s March 13, 2006 motion for a stay of proceedings is denied.  
15 2. Plaintiff’s March 13, 2006 motion for relief from judgment is denied.

16 DATED: March 30, 2006.

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18 /s/Lawrence K. Karlton  
UNITED STATES DISTRICT JUDGE

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